

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PENN TANK LINES, INC.	:	CIVIL ACTION
	:	
v.	:	
	:	
LIBERTY SURPLUS INSURANCE	:	No. 10-cv-178
CORPORATION	:	

**ORDER**

AND NOW, this 27th day of May 2011, upon consideration of the parties' cross-motions for summary judgment to determine whether Plaintiff Penn Tank Lines, Inc. is entitled to indemnification under the insurance policy numbered TIE-NY-100048-016 issued by Defendant Liberty Surplus Insurance Corporation, and each party's opposition, it is hereby ORDERED that Plaintiff's Motion for Summary Judgment (Doc. No. 16) is GRANTED in part and DENIED in part, and Defendant's Motion for Summary Judgment (Doc. No. 18) is DENIED. Accordingly, it is further ORDERED and DECLARED that:

1. A claim within the meaning of the policy for costs incurred by Plaintiff in connection with environmental contamination resulting from a March 24, 2006 gasoline spill in Melbourne, Florida, was first made against Plaintiff during the policy period, July 1, 2006 to July 1, 2008;
2. Plaintiff timely reported the claim to Defendant during that policy period;
3. Genuine issues of disputed material fact remain to be determined by the fact finder as to whether the policy exclusion for "Known Circumstances and Non-Disclosure" precludes insurance for the claim arising from the gasoline spill;
4. Genuine issues of disputed material fact remain to be determined by the fact finder as to whether Plaintiff complied with the policy duty to timely notify Defendant of pollution conditions that might result in a claim within the meaning of the policy; and

5. Plaintiff did not knowingly make false statements or knowingly fail to disclose information which was material to the risk against which Plaintiff sought to be insured under the policy.

BY THE COURT:

/s/ Legrome D. Davis

Legrome D. Davis, J.